

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA, }  
Plaintiff, }  
-vs- } Case No. 18 CR 789  
DENY MITROVICH, } Chicago, Illinois  
Defendant. } March 2, 2022  
10:20 a.m.

TRANSCRIPT OF VIDEOGRAPHIC PROCEEDINGS  
BEFORE THE HONORABLE GARY FEINERMAN

## APPEARANCES:

For the Government: HON. JOHN R. LAUSCH, JR.  
(via video conference UNITED STATES ATTORNEY  
call) BY: MR. ANDREW C. ERSKINE  
219 South Dearborn Street, Suite 500,  
Chicago, Illinois 60604  
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For the Defendant:  
(via video conference  
call) LAW OFFICES OF VADIM A. GLOZMAN  
BY: MR. VADIM A. GLOZMAN  
53 West Jackson Boulevard  
Suite 1128  
Chicago, Illinois 60604  
(312) 726-9015

Also Present: MR. JUSTIN WIERSEMA, Pretrial Services.  
(via video conference call)

## Court Reporter:

CHARLES R. ZANDI, CSR, RPR, FCRR  
Official Court Reporter  
United States District Court  
219 South Dearborn Street, Room 2144-G  
Chicago, Illinois 60604  
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1 (Proceedings heard in open court:)

2 THE CLERK: 18 CR 789, USA versus Mitrovich.

3 THE COURT: Okay. For the government?

4 MR. ERSKINE: Good morning, your Honor. Andrew  
5 Erskine from behalf of the United States.

6 THE COURT: Defense counsel?

7 MR. GLOZMAN: Good morning, your Honor. Vadim  
8 Glozman from behalf of Deny Mitrovich, who is present in my  
9 office.

10 THE COURT: All right. And then it seems like we  
11 have Mr. Wiersema on the case -- on the call?

12 MR. WIERSEMA: Good morning, Judge. Justin Wiersema  
13 Pretrial Services.

14 THE COURT: Sorry. We can't hear you.

15 MR. WIERSEMA: Judge --

16 THE COURT: Can't hear you.

17 So, anyway, I see Mr. Wiersema there, and he's with  
18 Probation.

19 So, why don't we put Mr. Mitrovich on the -- in front  
20 of the camera.

21 MR. GLOZMAN: Your Honor, there's one issue I'd like  
22 to discuss with this Court if that's okay before we proceed  
23 with the change of plea hearing.

24 THE COURT: Sure.

25 MR. GLOZMAN: So, on Friday, both myself and

1 Mr. Mitrovich, and I believe the government also, received a  
2 phone call from Pretrial indicating that they would ask your  
3 Honor to make Mr. Mitrovich register as a sex offender  
4 following his change of plea today. And I believe they filed  
5 a report as to that.

6 THE COURT: Right. And can I interrupt you for one  
7 second? That was Mr. Wiersema, and I misidentified him as  
8 being with Probation. He's with Pretrial Services.

9 So, go ahead.

10 MR. GLOZMAN: So, that was the first time we had  
11 heard that it might be necessary for Mr. Mitrovich to register  
12 after today. It was my understanding that there's no  
13 conviction until a judgment is entered, which is not until  
14 after sentencing, so that he would not be required to register  
15 until after that.

16 So, with the short notice, we were informed that  
17 Mr. Mitrovich would not be able to stay at the condo that he  
18 owns and has lived for well before this case. He can't stay  
19 with his mother, who's the third-party custodian and he takes  
20 care of after her stroke. He can't stay with his brother, who  
21 lives next to the mother.

22 And over the last few days, he's been scrambling to  
23 try to figure out where to stay; and he's been telling people  
24 about this case who never even knew about this case before,  
25 trying to figure out where to stay. And he just has nowhere

1 to go right now.

2 So, it's my position that he shouldn't have to  
3 register at this juncture. If your Honor believes or would  
4 compel Mr. Mitrovich to register after a change of plea, as  
5 opposed to after sentencing, I would just request that we  
6 continue this hearing to give him more than two business days  
7 to figure out where to stay because he'll be homeless if, you  
8 know, he has to do this today.

9 THE COURT: Understood. Government, do you have any  
10 thoughts on whether or not Mr. Mitrovich would be required to  
11 register upon a plea of guilty and -- before sentencing?

12 MR. ERSKINE: Your Honor, in the past, in similar  
13 cases, the defendant has been ordered to register, and that  
14 has been a practice. And the government thinks that it is --  
15 that it would be appropriate, based on at least the past  
16 practice.

17 But candidly, I have not viewed the statutory  
18 language that -- I think it would be Illinois law statutory  
19 language that applies here.

20 THE COURT: I agree. And so when there is a guilty  
21 plea, there isn't -- there is a judgment of conviction as part  
22 of the guilty plea. There isn't a judgment and commitment  
23 order, and there's no final judgment in the criminal case; but  
24 there is a judgment of conviction.

25 But I, too, like the government, am not intimately

1 familiar with Illinois law as to when a defendant has to  
2 register, upon a guilty plea or only after a sentence.

3 Mr. Glozman, do you have any insights into that?

4 MR. GLOZMAN: I don't, your Honor. I unfortunately  
5 don't have too much experience with the registration cases.  
6 In state court, usually you get sentenced the same day you  
7 plead guilty, so it's never really been an issue in state  
8 court. And I have not dealt with this issue at this juncture.

9 I'm not sure if this Court has the authority to enter  
10 an order withholding the registration requirement. All I will  
11 say is that, you know, the conduct that's at issue here is  
12 almost eight years old; and he's been living where he's living  
13 with no issues, and he's had, I believe, no violations of his  
14 conditions of release. The only thing that's changing now is  
15 the guilty plea.

16 We just need more than two business days to try to  
17 find him somewhere to live if he does have to leave this  
18 condo.

19 THE COURT: Understood. Let me ask if Pretrial was  
20 able to get back on the call.

21 MR. WIERSEMA: Yes, your Honor. Can the Court hear  
22 me?

23 THE COURT: Yes, we can now.

24 MR. WIERSEMA: Thank you. I'm having problems with  
25 the video.

1           I am, Judge. What -- if I could on this, I have some  
2 information. The State of Illinois law requires registration  
3 upon sentencing order. That is the exact word that is used.  
4 So --

5           THE COURT: Could you -- I'm sorry, Mr. Wiersema.  
6 Can you repeat that one more time? "Requires registration  
7 upon" --

8           MR. WIERSEMA: Upon entering of a sentencing order.  
9 That is the exact words. And if I could verify that right  
10 now.

11           So, the reason that Pretrial does ask the Court to do  
12 so is just that, as Mr. Glzman summarized pretty well, many  
13 times in state court, the sentencing -- the change of plea or  
14 the plea of guilty and the sentencing are the same day; but in  
15 federal court, as we know, individuals remain on bond for a  
16 lengthy period of time.

17           So, Pretrial Services just recommends that the  
18 registration be done; but again, the law says, "upon  
19 sentencing order."

20           So it's just a recommendation to the Court. Many  
21 judges in our building have not done so. Many have deferred  
22 judgment until the sentencing date or just not required the  
23 defendant to register.

24           So, there is some -- some leeway to allow this to  
25 happen without him registering.

1                   THE COURT: So, I mean, I want to follow Illinois  
2 law, and it sounds like Illinois law does not require  
3 registration until there's a sentencing order. If that's the  
4 case, I suppose I could require registration after just a  
5 guilty plea, but there would have to be a reason for doing so.

6                   Government, is there a reason specific to this case  
7 why I ought to require Mr. Mitrovich to register upon a guilty  
8 plea and before sentencing?

9                   MR. ERSKINE: Not specific to this case, no, your  
10 Honor.

11                  THE COURT: Probation, is there anything specific to  
12 this case?

13                  MR. WIERSEMA: No, Judge. The only minor thing is  
14 that he does live nearly across the street from a school, an  
15 elementary school, as noted in my report; but we have no --  
16 one minor violation from several years ago, which is not  
17 related to any minors at all. So, we have no concerns about  
18 that, and this case is not specific.

19                  THE COURT: All right. So, given that, and given  
20 that Mr. Mitrovich has been living at the same place for an  
21 extended period of time, and given that state law would not  
22 require him to register upon the entry of a guilty plea before  
23 sentencing, and in light of Probation's position and the  
24 government's position, I would not be requiring Mr. Mitrovich  
25 to register upon entry of a guilty plea, although, of course,

1 after sentencing, he would be required to do so in accordance  
2 with Illinois law.

3 MR. GLOZMAN: Of course.

4 THE COURT: So, with that, should we proceed?

5 MR. GLOZMAN: Yes, your Honor. I'll switch spots  
6 with Mr. Mitrovich, and we can proceed.

7 THE COURT: All right. So, there is a -- there is a  
8 CARES Act order on the docket. Let me just confirm with the  
9 government that you're agreeable to proceeding by video?

10 MR. ERSKINE: Yes, your Honor.

11 THE COURT: Okay. Mr. Glzman, are you agreeable to  
12 proceeding by video?

13 MR. GLOZMAN: Yes, your Honor, we're agreeable.

14 THE COURT: And, Mr. Mitrovich, are you agreeable to  
15 proceed with this guilty plea hearing by video?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: And do you understand that if you wanted  
18 to -- you have the right to have this hearing in person; and  
19 if you wanted to have it in person, we would have it in  
20 person. Do you understand that?

21 THE DEFENDANT: Yes, I do, your Honor.

22 THE COURT: And understanding that, is it -- is it  
23 still your desire to proceed by video today?

24 THE DEFENDANT: Correct.

25 THE COURT: All right. So, we'll proceed.

1                   The Court understands that it's your intention to  
2 offer a plea of guilty this morning. Before I can accept  
3 your plea, I must determine that you're competent to plead at  
4 this time; that you have the assistance -- you've had the  
5 assistance of counsel; that you understand the trial and  
6 appeal rights you'd be giving up by pleading guilty; that you  
7 understand the nature of the charges against you; that your  
8 plea is voluntary; and that there's a factual basis for your  
9 plea.

10                  I'm going to ask Ms. Deanes to put you under oath,  
11 and then I'm going to ask you some questions about this case;  
12 but before I do so, I'd like for you to understand a few  
13 things.

14                  First, at any time during this hearing, if you want  
15 to take a break and consult with Mr. Glozman, we'll give you a  
16 chance to do so. Understood?

17                  THE DEFENDANT: Yes, your Honor.

18                  THE COURT: Second, any false answers to any  
19 questions that I ask you could possibly subject you to a  
20 further prosecution for perjury or false statement.  
21 Understood?

22                  THE DEFENDANT: Understood, your Honor.

23                  THE COURT: Third, if you go ahead and plead guilty,  
24 you need to admit your guilt. If you admit your guilt, you  
25 testify against yourself.

1                   So, do you understand that if you go ahead and plead  
2 guilty, you'll necessarily be waiving your right not to  
3 testify against yourself?

4                   THE DEFENDANT: Yes, your Honor.

5                   THE COURT: And finally, if at any time during this  
6 hearing you decide that you don't want to go ahead with the  
7 guilty plea today, that's fine. It happens on occasion. You  
8 just need to let us know if you don't want to move forward.  
9 Understood?

10                  THE DEFENDANT: Understood.

11                  THE COURT: Go ahead, Jackie.

12                  THE DEFENDANT: Can you please raise your right hand  
13 and state your name for the record.

14                  THE DEFENDANT: Deny Mitrovich.

15                  (Defendant sworn.)

16                  THE DEFENDANT: I do solemnly swear.

17                  THE CLERK: You've been sworn. You may put your  
18 hand down.

19                  THE COURT: So, could you please say your name again?

20                  THE DEFENDANT: Deny Mitrovich.

21                  THE COURT: How old are you?

22                  THE DEFENDANT: Me? I'm 44.

23                  THE COURT: In what city or town do you live?

24                  THE DEFENDANT: I live in Cook County, in Chicago.

25                  THE COURT: Are you married?

1                   THE DEFENDANT: Yes, but soon to be divorced.

2                   THE COURT: How many grades did you complete in  
3 school?

4                   THE DEFENDANT: I got two years in the community  
5 college at Wilbur Wright Community College.

6                   THE COURT: Are you currently employed?

7                   THE DEFENDANT: Yes, your Honor.

8                   THE COURT: What's your job?

9                   THE DEFENDANT: I work at Agenda Water Solutions.  
10 It's a plumbing warehouse, and we supply jobs and smalltime  
11 plumbing businesses with plumbing supplies, drains, pipes,  
12 toilets, that kind of thing.

13                   THE COURT: Understood. Are you a citizen of the  
14 United States?

15                   THE DEFENDANT: Yes, your Honor.

16                   THE COURT: Are you in good physical health?

17                   THE DEFENDANT: Yes, your Honor.

18                   THE COURT: Have you taken any recreational drugs or  
19 drunk any alcoholic beverages in the last 24 hours?

20                   THE DEFENDANT: No, your Honor.

21                   THE COURT: Have you recently been under the care of  
22 a doctor or in a hospital for a mental condition or addiction?

23                   THE DEFENDANT: No, your Honor.

24                   THE COURT: Let me ask Mr. Glozman, do you have any  
25 doubt as to Mr. Mitrovich's competence to plead guilty at this

1 time?

2 MR. GLOZMAN: No, your Honor.

3 THE COURT: Government, do you?

4 MR. ERSKINE: No, your Honor.

5 THE COURT: I don't, either. I'm going to find that  
6 the defendant is competent to offer a plea of guilty.

7 Could you please tell me the name of your attorney.

8 THE DEFENDANT: Vadim Glozman.

9 THE COURT: Have you had enough time to speak with  
10 Mr. Glozman?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Have you told Mr. Glozman everything you  
13 know about the case?

14 THE DEFENDANT: Yes.

15 THE COURT: Are you satisfied with his advice and  
16 efforts?

17 THE DEFENDANT: Yes. He's been very diligent in the  
18 case, and he's very knowledgeable. He's one of the best  
19 lawyers that I've had a chance to deal with.

20 THE COURT: So, you're charged by indictment with  
21 knowingly possessing child pornography. Have you had a  
22 chance to read the indictment in this case?

23 THE DEFENDANT: I think a while ago, but that's been  
24 a -- towards the beginning of the case.

25 THE COURT: All right. And did you discuss the

1 charges -- the charge against you with Mr. Glozman?

2 THE DEFENDANT: Yes. We talked about it, and we  
3 discussed it in detail; and I'm aware of the punishments and  
4 things of that nature.

5 THE COURT: Okay. And, Mr. Glozman, without getting  
6 into the details, what did you tell Mr. Mitrovich that the  
7 indictment charges him with doing?

8 MR. GLOZMAN: Your Honor, I told Mr. Mitrovich that  
9 he is charged with the possession of child pornography, which  
10 is a federal offense, and that he possessed it on the date  
11 specified in the indictment.

12 THE COURT: And, Mr. Mitrovich, do you understand the  
13 charge against you?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: And have you discussed with Mr. Glozman  
16 your intention to plead guilty to that charge?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: So, if you go ahead and plead guilty,  
19 your guilty plea will be valid only if you understand the  
20 rights that you're giving up by pleading guilty. And those  
21 rights are set forth in the plea agreement, but I also want  
22 to discuss them with you here this morning.

23 So, these are rights that you have, and these are  
24 rights that you'd be giving up if you plead guilty.

25 So, do you understand that under the Constitution

1 and laws of the United States, you have a right to a trial by  
2 jury on the charge against you?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: And you've previously pleaded not guilty.  
5 Do you understand that you have a right to stick with your  
6 not-guilty plea and insist upon a trial?

7 THE DEFENDANT: Yes, I do understand.

8 THE COURT: And do you understand that if you do  
9 that, you have a right to a speedy trial; you have a right to  
10 see and hear all the witnesses called to testify against you;  
11 you have a right to use the court's subpoena power to compel  
12 the attendance of witnesses that you'd like to present at  
13 trial; and that your attorney would have the right to examine  
14 or cross-examine the witnesses at trial?

15 THE DEFENDANT: Yes, I understand.

16 THE COURT: And do you understand that you have a  
17 right to be represented by counsel at every stage of the  
18 proceeding and to have counsel appointed for you if you  
19 cannot afford counsel?

20 THE DEFENDANT: Yes, I was -- I'm aware of that.

21 THE COURT: Okay. And, Mr. Glozman, are you  
22 retained?

23 MR. GLOZMAN: Yes, your Honor, I'm retained.

24 THE COURT: Okay. So, right now, Mr. Mitrovich,  
25 you're paying your own attorney, Mr. Glozman. If there

1 comes a point in this case, whether you plead guilty or not,  
2 where you cannot afford to pay for your own attorney, the  
3 Court will appoint an attorney to represent you at no charge  
4 to you. Do you understand that?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Okay. Do you understand that if this  
7 case went to trial, you'd be presumed innocent? What that  
8 means is that in order to get a not-guilty verdict, you don't  
9 have to prove anything; you don't have to say anything; you  
10 don't have to testify.

11 THE DEFENDANT: I kind of understand that, but I'm  
12 not real good with --

13 THE COURT: You have the presumption of innocence.  
14 So, what that means is that -- let me get at it from a  
15 different direction.

16 In order to get a guilty verdict, the government  
17 bears the burden of proving beyond a reasonable doubt that  
18 you're guilty of the charge against you. Do you understand  
19 that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: And if the government doesn't prove  
22 beyond a reasonable doubt that you're guilty of the charge  
23 against you, you will be found not guilty regardless of  
24 whether you present any evidence or not.

25 THE DEFENDANT: Okay.

1 THE COURT: Do you understand that?

2 THE DEFENDANT: Yes, I understand.

3 THE COURT: And do you understand that at any trial,  
4 while you'd have the right to testify if you wanted to, you'd  
5 also have the right not to testify?

6 THE DEFENDANT: I understand.

7 THE COURT: And do you understand that if you chose  
8 not to testify, no inference or suggestion of guilt could be  
9 drawn from the fact that you did not testify?

10 THE DEFENDANT: I -- yeah, I -- I understand.

11 THE COURT: Okay. And do you understand that if  
12 this trial were a jury trial, the jury would be composed of  
13 12 people?

14 THE DEFENDANT: Yes.

22 And then after I had a chance to review those  
23 questionnaires, I would ask each of the prospective jurors  
24 questions in open court. Do you understand that?

25 | THE DEFENDANT: I understand, your Honor.

1                   THE COURT: And then after that process was done,  
2 Mr. Glozman on your behalf would have the right to ask me to  
3 excuse from service in this case any of the prospective jurors  
4 that you believed were biased against you or couldn't give you  
5 a fair trial or were disqualified for some other reason.

6                   Do you understand that?

7                   THE DEFENDANT: I understand, your Honor.

8                   THE COURT: And I could either grant all of those  
9 requests, deny all of them, or grant some and deny others.

10                  And do you understand that of the prospective jurors  
11 that remained after that process, you could excuse 10 of them  
12 from service in this case without giving me any reason at all?

13                  THE DEFENDANT: I understand.

14                  THE COURT: And do you understand that if this case  
15 went to trial and it were a jury trial, in order for you to be  
16 found guilty, the jury would have to vote unanimously in favor  
17 of guilt; it would have to be 12-to-0 in favor of guilt?

18                  THE DEFENDANT: 12-to-0.

19                  THE COURT: In order for you to be found guilty, the  
20 jury would have to be unanimous.

21                  THE DEFENDANT: Yes. Okay. So, then, I don't know,  
22 like, it would be under just like one -- one count or -- one  
23 count?

24                  THE COURT: There's just one count of the indictment,  
25 is that right, Mr. Erskine?

1                   MR. ERSKINE: Yes, your Honor, there's one count.

2                   THE COURT: Yeah. So, the jury would be just voting  
3 on one count of the indictment, possession of child  
4 pornography. And in order to find you -- the only way you  
5 could be found guilty is if the jury votes 12-to-nothing,  
6 12-to-0 in favor of guilt. Do you understand that?

7                   THE DEFENDANT: Yes, yes, your Honor.

8                   THE COURT: So, do you also understand that if you  
9 and the government and the Court agreed, the trial could be a  
10 bench trial? And a bench trial is still a trial, but the  
11 difference between a bench trial and a jury trial is that at a  
12 jury trial, the jury decides whether you're guilty or not  
13 guilty; and at a bench trial, the judge, probably me, would be  
14 making that decision.

15                  THE DEFENDANT: I understand, your Honor.

16                  THE COURT: And do you understand that whether it's a  
17 bench trial or a jury trial, the government is held to the  
18 same beyond a reasonable doubt standard?

19                  THE DEFENDANT: So, basically, they would have to  
20 prove -- yeah, prove without a doubt that -- yeah, I  
21 understand.

22                  THE COURT: Without a reasonable -- proof beyond a  
23 reasonable doubt.

24                  THE DEFENDANT: Okay. Yes.

25                  THE COURT: And that burden is on the government at

1 both a jury trial and a bench trial. Understood?

2 THE DEFENDANT: Understood, your Honor.

3 THE COURT: And do you understand that if you were  
4 found guilty at a trial, whether it's a bench trial or a jury  
5 trial, you'd have the right to appeal the guilty verdict to  
6 the Court of Appeals?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: And do you understand that if you plead  
9 guilty, you waive, you give up all the rights that I've just  
10 mentioned?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And do you understand that if you plead  
13 guilty and I accept your plea, there will not be a trial; I'll  
14 enter a finding of guilty on the sole count of the indictment;  
15 and then we'll set a sentencing hearing for about three months  
16 from today, at which I'll decide upon your sentence after I  
17 have a chance to consider a Presentence Investigation Report  
18 prepared by the Probation Office, any briefs that Mr. Glozman  
19 files, any briefs that the government files, and any  
20 statements or arguments that are made at the sentencing  
21 hearing?

22 THE DEFENDANT: I understand, your Honor. I mean,  
23 I've been --

24 MR. GLOZMAN: Just answer his question.

25 THE DEFENDANT: Yes, yes.

1                   THE COURT: And I've told you about the rights you  
2 would be giving up if you pled guilty. If you go ahead and  
3 plead guilty, you will retain certain appeal rights. You  
4 could appeal the validity of your guilty plea; you could  
5 appeal your sentence; and you could appeal my ruling that  
6 denied your motion to suppress. Do you understand that?

7                   THE DEFENDANT: Yes, your Honor.

8                   THE COURT: So, there's a plea agreement in this  
9 case. And I have a copy that's fully signed. It's 20 pages.  
10 Do you have a copy of the plea agreement there, Mr. Mitrovich?

11                  THE DEFENDANT: Yes, your Honor.

12                  THE COURT: Could you turn to page 20.

13                  Is that your signature there?

14                  THE DEFENDANT: Yes. Yes, your Honor.

15                  THE COURT: Did you read the document before you  
16 signed it?

17                  THE DEFENDANT: Yeah. I read through it, and then  
18 Vadim explained page by page to me.

19                  THE COURT: Okay. So, you discussed the plea  
20 agreement with Mr. Glozman?

21                  THE DEFENDANT: Yes, your Honor.

22                  THE COURT: And do you understand that this plea  
23 agreement encompasses your entire deal with the government,  
24 what they're promising to you and what you're promising to  
25 them?

1                   THE DEFENDANT: Yes, your Honor.

2                   THE COURT: And I know you're in a tough position  
3 right now because you're under indictment for a serious  
4 charge. Do you believe that entering into this plea agreement  
5 is your best option at this point?

6                   THE DEFENDANT: I believe so, your Honor, because --  
7 yes, I understand.

8                   THE COURT: Let me ask the government to state what  
9 the maximum penalties are in this case.

10                  MR. ERSKINE: Your Honor, the proposed offense of  
11 conviction has a maximum possible sentence of 20 years'  
12 imprisonment, a maximum fine of \$250,000, a term of supervised  
13 release must be imposed of at least five years, up to any  
14 number of years, including life. And there's also a mandatory  
15 special assessment of \$100. And restitution must be ordered  
16 as well to any victims.

17                  THE COURT: Okay. Do you understand that,  
18 Mr. Mitrovich?

19                  THE DEFENDANT: I believe so. I think I understand  
20 it all.

21                  THE COURT: I mean, do you understand what the  
22 maximum penalties are in this case?

23                  THE DEFENDANT: Yes, I understand the maximum  
24 penalty.

25                  THE COURT: Okay. And restitution, Mr. Erskine, I

1 know that restitution is mandatory. Do we have any sense as  
2 to what restitution will be in this case?

3 MR. ERSKINE: No, your Honor. It will -- it will  
4 take further discussion as to who persists in a claim and  
5 that sort of analysis, so at this time, we don't know what  
6 that number is.

7 THE COURT: Okay. Do you understand, Mr. Glozman,  
8 that while you -- restitution is mandatory, I can't tell you  
9 right now how much money your restitution obligation is going  
10 to be?

11 MR. GLOZMAN: Do you mean Mr. Mitrovich?

12 THE COURT: Yeah. I'm sorry. Mr. Mitrovich.

13 THE DEFENDANT: Yes, I understand.

14 THE COURT: And in terms of a forfeiture, I believe  
15 that the plea agreement has you agreeing to forfeit these  
16 three hard drives that are listed in the plea agreement.

17 THE DEFENDANT: Yes.

18 THE COURT: Do you understand that?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: That means you give up your right -- your  
21 ownership rights in those hard drives, and those have to be  
22 turned over to the government. Understood?

23 THE DEFENDANT: Yes.

24 THE COURT: Have you had a chance to speak with  
25 Mr. Glozman about the Sentencing Guidelines?

1                   THE DEFENDANT: Yes.

2                   THE COURT: So, from the plea agreement, I can see  
3 that you and the government don't agree on what the Guidelines  
4 range is going to be. The government is indicating that it  
5 believes that the Guidelines range is going to be 188 to  
6 235 months, and that you believe that the Guidelines range is  
7 going to be 78 to 97 months.

8                   THE DEFENDANT: Yes.

9                   THE COURT: I -- and that has to do with -- I guess  
10 the government believes that there's going to be a five-level  
11 enhancement under 2G2.2(b)(3)(B) for knowingly engaging in  
12 distribution in exchange for valuable consideration, and  
13 you -- you believe that that five-level enhancement doesn't  
14 apply.

15                  And are the other three levels, Mr. Erskine, having  
16 to do with acceptance?

17                  MR. ERSKINE: Yes, your Honor. The government is  
18 reserving acceptance at this time.

19                  THE COURT: So, those are the two issues that are  
20 resulting in the difference of opinion at this point between  
21 you and the government regarding the Guidelines range.

22                  I can't tell you right now what your Guidelines  
23 range is going to be. I'll make that determination at the  
24 sentencing hearing after I have a chance to consider  
25 everybody's position and everybody's argument, including the

1 Probation Office. Do you understand that?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: So, if at the sentencing hearing I decide  
4 that the Guidelines range is -- I make a determination about  
5 the Guidelines range that you disagree with, you'll have the  
6 ability to appeal your sentence; however, if it turns out that  
7 you disagree with my calculation of the Guidelines range, that  
8 won't give you a justification to withdraw your guilty plea.

9 Understood?

10 THE DEFENDANT: I understand, your Honor.

11 THE COURT: And also, whatever the Guidelines range  
12 is going to be, I'm not required to impose a sentence within  
13 that range. So, whatever it is, whatever the Guidelines range  
14 is, I can impose -- I can impose a sentence within that range.  
15 I can also impose a sentence above the range all the way up to  
16 the statutory maximum of 20 years, and I also can impose a  
17 sentence that's below the range. Do you understand that?

18 THE DEFENDANT: Yes, your Honor, I fully understand.

19 THE COURT: And again, if you end up disagreeing with  
20 the sentence that I impose, if you think it's unfair or too  
21 high, you can appeal your sentence; however, if you end up  
22 disagreeing with my sentence, that won't give you a  
23 justification to withdraw your guilty plea. Understood?

24 THE DEFENDANT: I understand, your Honor.

25 THE COURT: Let me ask the government, do you think

1 there's anything else about sentencing that I ought to discuss  
2 with Mr. Mitrovich?

3 MR. ERSKINE: No, your Honor. Well, I guess, your  
4 Honor, just perhaps clarifying his understanding that, as we  
5 discussed earlier, when he gets sentenced, it's quite possible  
6 and likely he'll have to register.

7 THE COURT: Right. And do you understand that,  
8 Mr. Mitrovich?

9 THE DEFENDANT: I just wanted to get clarification on  
10 what tier would that be? Would that be Tier 1?

11 THE COURT: I'm not sure I understand your question.

12 THE DEFENDANT: With regard to registration, is that  
13 Tier 1, Tier 2, or Tier 3?

14 MR. GLOZMAN: Your Honor, I'll do some research on  
15 Mr. Mitrovich's request as to what kind of registration will  
16 be required by him, but I think he understands that some kind  
17 of registration will be required.

18 THE COURT: Is that correct, Mr. Mitrovich?

19 THE DEFENDANT: Yes.

20 THE COURT: Okay. And I don't know what tier you're  
21 going to be. All I can tell you is that after the sentencing  
22 hearing, I guess within three days, you're going to have to  
23 register under -- with the Illinois authorities under  
24 Illinois law.

25 THE DEFENDANT: That's the Illinois State Police

1 or --

2 THE COURT: Yes.

3 THE DEFENDANT: Okay. Yes, I understand.

4 THE COURT: So, Mr. Mitrovich, has anyone forced you  
5 in any way to plead guilty?

6 THE DEFENDANT: No.

7 THE COURT: Has anyone threatened you in any way to  
8 cause you to plead guilty?

9 THE DEFENDANT: No, your Honor.

10 THE COURT: Is your decision to plead guilty entirely  
11 voluntary?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: And do you understand that the final  
14 decision as to what your sentence will be rests with me,  
15 subject to review by the Court of Appeals?

16 THE DEFENDANT: I understand, your Honor.

17 THE COURT: So, let me ask the government to state  
18 what its evidence would be with respect to the sole count of  
19 the indictment if this case were tried.

20 And, Mr. Mitrovich, I'm going to ask that you pay  
21 close attention to what the government's about to say because  
22 when the government is finished, I'm going to ask you whether  
23 the government's statement was correct, whether you did the  
24 things that the government said that you did, and whether you  
25 disagree with any part of the government's statement, even if

1 it's just a minor detail.

2 Understood?

3 THE DEFENDANT: Yes.

4 THE COURT: Go ahead, government.

5 MR. ERSKINE: Yes, your Honor. And I'm reading  
6 starting towards the top of page 3.

7 Beginning in or about August 2014, Mitrovich used Tor  
8 to access a hidden service known as The Love Zone or TLZ, an  
9 online bulletin board dedicated to the sharing of child  
10 pornography. Mitrovich participated on TLZ under the username  
11 cyberguy. Under TLZ's rules, members were required to  
12 periodically upload child pornography to TLZ, i.e.,  
13 contribute, in order to maintain the ability to download child  
14 pornography from TLZ.

15 Mitrovich complied with this rule, and he  
16 acknowledges that between August 3rd, 2014, and December 9,  
17 2014, Mitrovich contributed approximately 24 times; and based  
18 on his uploading of child pornography, later received  
19 additional child pornography, which he viewed and downloaded.

20 For example, on or about September 10, 2014,  
21 defendant contributed a post entitled, "Sugar Spice Girl  
22 Slurping," C-word, which included a link to a video that was  
23 4 minutes, 2 seconds long that depicted a prepubescent female,  
24 including the oral penetration of this female by an adult male  
25 penis.

1                   As another example, on or about October 10, 2014,  
2 defendant contributed a post entitled, "Little," P-word,  
3 "Tight Fit," which included a video that was 3 minutes,  
4 25 seconds long, that depicted a prepubescent female,  
5 including the vaginal penetration of this female by an adult  
6 male's finger and penis.

7                   On or about May 20th, 2015, defendant possessed three  
8 hard drives in his home in Chicago. Each of the three drives  
9 contained child pornography, and each drive was manufactured  
10 outside the United States.

11                  The Western Digital external hard drive serial number  
12 WCARW6062159 contained approximately 1,263 images of child  
13 pornography and approximately 539 videos of child pornography.

14                  The Hitachi internal hard drive serial number  
15 HN07304A contained approximately 17 images of child  
16 pornography.

17                  The Western Digital internal hard drive, serial  
18 number WCASY1307751, contained approximately 16 images of  
19 child pornography.

20                  Defendant acknowledges that among the child  
21 pornography defendant possessed on these drives were items  
22 involving sadistic or masochistic conduct, sexual abuse, and  
23 other violence, as well as items involving sexual abuse or  
24 exploitation of a toddler. For example, the file named  
25 FAOEPAABM.JPG consisted of a collage of pictures of the same

1 prepubescent female. Among other things, the collage depicted  
2 the oral penetration of this female by an adult male's penis  
3 while the female was handcuffed, an adult male urinating on  
4 the female, the female in a closed dog's crate, the female  
5 with clamps on her chest, and the female with the words  
6 "hurt me" written on her body.

7 THE COURT: Okay. Mr. Mitrovich, have you heard the  
8 government's statement?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Is it correct?

11 THE DEFENDANT: I --

12 (Discussion had between the defendant and counsel.)

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Did you do the things that the government  
15 said that you did?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Is there any part of the government's  
18 statement that you disagree with, whether you think it's a  
19 major issue or a minor detail?

20 THE DEFENDANT: No, your Honor.

21 THE COURT: So, at this point, Mr. Mitrovich, I can  
22 ask you, how do you now plead to the sole count of the  
23 indictment?

24 THE DEFENDANT: I plead guilty?

25 THE COURT: Okay. You're a little equivocal there.

1 So, let me ask you again, Mr. Mitrovich. How would you like  
2 to plead to the sole count of the indictment?

3 THE DEFENDANT: I plead guilty, your Honor.

4 THE COURT: Since you acknowledge that you're, in  
5 fact, guilty as charged as to the sole count of the  
6 indictment; you've had the assistance of counsel; there's a  
7 factual basis for your plea; you know the trial and appeal  
8 rights you'll be giving up by pleading guilty -- you are  
9 giving up by pleading guilty; you know what the maximum  
10 possible punishment is; and you're voluntarily pleading  
11 guilty, I'll accept your plea of guilty and enter a judgment  
12 of guilty on your plea as to the sole count of the indictment.

13 I'll ask the Probation Office to prepare a  
14 Presentence Investigation Report. And, Jackie, let's set this  
15 for a sentencing hearing.

16 THE CLERK: Sure. May 25th at 10:30 a.m.

17 MR. GLOZMAN: Your Honor --

18 THE COURT: Does that work for both lawyers?

19 MR. GLOZMAN: Your Honor, I'm expecting my first  
20 child about a week before that. I was hoping maybe we can go  
21 a little bit further.

22 THE COURT: I'm sorry. When would you like to go to?

23 MR. GLOZMAN: Sorry, your Honor. I'm expecting a  
24 child about then. I was hoping to get some more time before  
25 sentencing. Maybe we could do middle of June.

1                   THE COURT: Okay. Government, is that okay with you?

2                   MR. ERSKINE: Your Honor, it's fine to delay it. I  
3 expect to be on trial in the middle of June.

4                   THE COURT: Okay. What we can -- go ahead, Jackie.

5                   THE CLERK: June 8th?

6                   THE COURT: I don't know if that's going to give  
7 Mr. Glozman enough time. Why don't we say late June.

8                   MR. ERSKINE: That works for the government.

9                   THE CLERK: June 28th.

10                  MR. GLOZMAN: I'm starting a trial the 27th. Can we  
11 do the week before?

12                  THE CLERK: Actually, we'll be on trial that week.

13                  MR. GLOZMAN: The one I have starting on the 27th  
14 will be between two and three weeks long.

15                  THE COURT: So, the 20th we're on trial, Jackie?

16                  THE CLERK: June 20th is actually a holiday, Judge.

17                  THE COURT: Right. It's the 21st, and we have a jury  
18 trial that week?

19                  THE CLERK: Yes.

20                  THE COURT: And, Mr. Erskine, you're on trial during  
21 the week of the 13th?

22                  MR. ERSKINE: Yes, your Honor.

23                  MR. GLOZMAN: Your Honor, I'll make June 8th work.

24                  MR. ERSKINE: I'm sorry, your Honor. I'm on trial  
25 the first three weeks of June. The government would have no

1 objection to July.

2 THE COURT: Okay. Why don't we go into July, then,  
3 Jackie.

4 THE CLERK: Sure. How about July 7th.

5 MR. GLOZMAN: I think I'll still be on trial that  
6 week from the 27th. Can we do the week of the 18th?

7 THE CLERK: Sure. How about July 21st?

8 MR. GLOZMAN: That works for me.

9 MR. ERSKINE: That works for the government.

10 THE CLERK: 10:30 a.m.

11 THE COURT: Okay. Mr. Mitrovich, you're still on  
12 bond, and your conditions of pretrial release remain in place.  
13 Do you understand that?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Government, anything further?

16 MR. ERSKINE: Nothing further, your Honor. Thank  
17 you.

18 THE COURT: Mr. Glozman?

19 MR. GLOZMAN: Nothing further, your Honor.

20 THE COURT: All right. We'll get back together in  
21 July.

22 THE DEFENDANT: Thank you, your Honor.

23 MR. ERSKINE: Thank you.

24 MR. GLOZMAN: Thank you, your Honor.

25 (Which were all the proceedings heard.)

1 CERTIFICATE

2 I certify that the foregoing is a correct transcript from  
3 the record of proceedings in the above-entitled matter.

4

5 */s/Charles R. Zandi*

February 8, 2023

6 Charles R. Zandi  
7 Official Court Reporter

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10 Date

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